

# THE PUBLIC DEFENDER SERVICE

*for the District of Columbia*



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CHAMPIONS OF LIBERTY

Fiscal Year 2018

Congressional Budget Justification

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**PUBLIC DEFENDER SERVICE  
FISCAL YEAR 2018 CONGRESSIONAL BUDGET JUSTIFICATION**

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## LEGAL AUTHORITY AND MISSION

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization governed by an eleven-member Board of Trustees. Originally operating as the Legal Aid Agency from 1960 to 1970, PDS was created in 1970 by a federal statute<sup>1</sup> enacted to comply with a constitutional mandate to provide defense counsel for people who cannot afford an attorney.<sup>2</sup> The mission of PDS is to provide and promote quality legal representation for indigent adults and children facing a loss of liberty in the District of Columbia justice system and thereby protect society's interest in the fair administration of justice.

A major portion of the work of the organization consists of representing individuals in the District of Columbia's local criminal justice system who are charged with committing serious criminal acts and who are eligible for court-appointed counsel. In the District of Columbia, public defense services are primarily provided by PDS, the "institutional defender," and a panel of private attorneys, known as Criminal Justice Act (CJA) attorneys, who are screened for membership on the panel and paid on a case-by-case basis by the District of Columbia courts.<sup>3</sup> Because of its better resources, well-regarded training program, and overall higher skill level, PDS generally handles the more serious criminal cases, and the CJA attorneys generally handle the less serious criminal cases. The federal public defender system is modeled in most respects on this structure.

PDS also provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many of the indigent children in the most serious delinquency cases, including those who have special education needs due to learning disabilities. PDS attorneys represent indigent clients in the majority of the most serious adult felony cases filed in the District of Columbia Superior Court every year, clients pursuing or defending against criminal appeals, nearly all individuals facing supervised release or parole revocation under the District of Columbia Code, and all defendants in the District of Columbia Superior Court requiring representation at Drug Court sanctions hearings. In addition, PDS provides technical assistance to the local criminal justice system, training for CJA and pro bono attorneys, and additional legal services to indigent clients in accordance with PDS's enabling statute.

In 1997, the Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),<sup>4</sup> which relieved the District of Columbia of certain "state-level" financial responsibilities and restructured a number of criminal justice functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to the Congress and received its appropriation as an administrative transfer of federal funds through the Court Services and Offender Supervision Agency appropriation. With the enactment of the Fiscal Year 2007 Appropriation Act, PDS now receives a direct appropriation from the Congress. In accordance with its enabling statute and the constitutional mandate it serves, PDS remains a fully independent organization and does not fall under the administrative, program, or budget authority of any federal or local executive branch agency.

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<sup>1</sup> Pub. L. No. 91-358, Title III, § 301 (1970); *see also* D.C. Code §§ 2-1601 – 1608 (2001).

<sup>2</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963).

<sup>3</sup> Plan for Furnishing Representation to Indigents under the District of Columbia Criminal Justice Act. D.C. Code §§ 11-2601 – 2608 (2001).

<sup>4</sup> Pub. L. No. 105-33, Title X (1997).

Since its creation, PDS has maintained a reputation nationally and in the District of Columbia criminal justice system for exceptional advocacy. The strength of PDS has always been the quality of the legal services that the organization delivers. Judges and prosecutors alike acknowledge and respect the excellent advocacy of PDS's attorneys, as do public defender agencies and criminal justice bars across the nation.

# PUBLIC DEFENDER SERVICE BUDGET JUSTIFICATION SUMMARY

## FY 2018 Summary of Changes

	<b>FY 2018 PDS Need</b>	
	<b>FTE</b>	<b>(\$ in 000s)</b>
<b>FY2017 Annualized Continuing Resolution</b>	<b>224</b>	<b>40,811</b>
<b>Adjustments to Base:</b>	-	-
 Add		
Pay Raises	-	593
General Pricing Level	-	312
Efficiency Savings	-	(1,634)
 <b>Total, Adjustments</b>	<b>-</b>	<b>(729)</b>
 <b>FY 2018 Base</b>	<b>224</b>	<b>40,082</b>
 <b>FY 2018 Request</b>	<b>224</b>	<b>40,082</b>

## FISCAL YEAR 2018 REQUIREMENTS

The Public Defender Service for the District of Columbia (PDS) requests an operating budget of \$40,082,000 for Fiscal Year (FY) 2018. These funds will allow PDS to maintain operations and absorb inflationary increases in compensation and other operating expenses.

PDS's operating budget request reflects a **decrease** of \$729,000, from the FY 2017 annualized continuing resolution funding level of \$40,811,000.

This request is consistent with PDS's policy and funding priorities – providing high quality representation to individuals who face serious charges but who cannot afford to hire an attorney.

## Summary of PDS's FY 2016 Accomplishments

The Public Defender Service for the District of Columbia, an integral part of the District's adult and juvenile justice systems, is the vehicle for a number of the constitutional checks and balances the Framers included in the Bill of Rights. Without the constitutionally mandated representation PDS provides, the justice system's fairness would be severely compromised: defendants may have their constitutional or statutory rights disregarded, or may be wrongfully convicted. These are some of the non-financial costs that PDS's representation avoids.

PDS has reported in previous budget submissions that its representation also reduces the financial costs of the criminal justice system, including prosecutorial, judicial, and detention costs: every year, PDS obtains dismissals early in the cases' progression through the system.<sup>5</sup>

PDS continued in FY 2016 to obtain such dismissals. In one of the most significant dismissals, what would have been a weeks-long murder case retrial was avoided after PDS, relying on exhaustive factual investigation in and outside the District of Columbia metropolitan area, demonstrated conclusively that the credibility of prosecution's key witness was severely compromised.

In a second case, PDS obtained the dismissal of a client's murder case within days of the client's arrest after presenting GPS evidence to the prosecution showing that the client was nowhere near the scene at the time the crime was committed and could not have been the person who committed it.

In a third case, a client's murder case was dismissed within days of his arrest after PDS investigation discovered video and an alibi witness proving that the prosecution had charged the wrong man.

In each instance, PDS's work saved the client the burden of an unfounded, false, or mistaken allegation and saved the justice system the substantial cost of pursuing a trial.

These cases demonstrate that with the funding provided in FY 2016, PDS continued to be a well-functioning public defender office, achieving significant results.

PDS also further refined its data-gathering and analysis capacity in FY 2016. Despite not having a research division and despite being denied access to certain electronic criminal justice system data controlled by District of Columbia law enforcement agencies and courts, PDS made steady progress toward more effectively incorporating data evaluation techniques in managing the organization to ensure that PDS maintains its high quality performance.<sup>6</sup> PDS continues to evaluate its performance through its growing capacity to generate outcome data<sup>7</sup> and through surveys of stakeholders.<sup>8</sup> The results demonstrate that PDS is a high performing program. More specific to case outcomes:

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<sup>5</sup> See PDS FY 2017 Congressional Budget Justification at 5-6; PDS FY 2016 Congressional Budget Justification at 18-19.

<sup>6</sup> In FY 2017, the court changed its position and decided to grant PDS access to its electronic data and very recently began transmitting some data. PDS will analyze the data for trends and other information to assist PDS in improving its performance.

<sup>7</sup> PDS's five-year multi-stage project of upgrading PDS's case management system, completed with supportive funding, continues to produce outcome data that PDS expects to use to more accurately track the historical performance of each of PDS's practice areas and, ultimately, to compare PDS's

- PDS’s Trial Division won more than 50 percent of its trials.
- PDS’s Mental Health Division won more than 53 percent of its contested probable cause hearings.
- PDS’s Parole Division won 20 percent of its contested hearings.

PDS maintained this high level of performance in its Trial Division through FY 2016 despite the increased number of homicide case filings in the District of Columbia Superior Court and the increased number of PDS appointments to those cases, with no increase in the number of trial attorneys.<sup>9</sup>

	Number of All Homicide Cases	<b>Number of PDS Homicide Cases</b>	Number of non-PDS Homicide Cases	<b>PDS Percentage of Homicide Cases</b>
FY 2014	75	<b>53</b>	22	<b>71%</b>
FY 2015	90	<b>60</b>	30	<b>66%</b>
FY 2016	104	<b>73</b>	31	<b>70%</b>

Overall in FY 2016, PDS handled 3,901 trial matters; 2,116 parole matters; 1,706 mental health matters; 156 appellate matters; 274 civil matters, including special education matters; 1,462 post-commitment (juvenile) and post-conviction (adult) matters; 1,840 Drug Court matters; 95 special litigation matters; and 4,007 “Duty Day” matters, the majority of which are requests for assistance with sealing a criminal record.

Every legal division at PDS, often supported by PDS forensic social workers and investigators, plays a part in improving the effectiveness of the criminal justice system, case by case. And using the information PDS learns at the trial level, PDS works to improve the fairness of the criminal justice system and collaborates with others in the criminal justice system to develop and support evidence-based programs that cost-effectively improve the criminal justice system and reduce recidivism.

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performance over time with that of other defender institutions and systems that also generate outcome data.

As reported in PDS’s FY 2016 Budget Justification, PDS’s goal is to obtain outcome data from the District of Columbia Superior Court for the entire criminal defense function in the District of Columbia to assess and improve performance in the District of Columbia. With the court’s new receptivity to making the data available electronically, PDS seeks to make progress on this goal. See PDS FY 2016 Budget Justification at 15-16.

<sup>8</sup> An example is PDS’s 2014 Employee Survey, the detailed results of which were presented in PDS’s FY 2016 Budget Justification at 25-26.

<sup>9</sup> PDS was able to accomplish this because of the additional resources for eight trial attorney positions provided in PDS’s FY 2014 and FY 2015 budgets.

## Resource Request

PDS requests an operating budget of \$40,082,000 – a decrease of \$729,000 from PDS’s FY 2017 annualized continuing resolution funding level of \$40,811,000. PDS’s budget request is designed to equip PDS to remain a high functioning public defender office.

## PROGRAM DESCRIPTION

### Legal Services

PDS and private attorneys, both appointed by the District of Columbia courts pursuant to the Plan for Furnishing Representation to Indigents under the District of Columbia Criminal Justice Act (CJA),<sup>10</sup> provide constitutionally mandated legal representation to indigent people facing a loss of liberty in the District of Columbia. PDS handles a majority of the most difficult, complex, time-consuming, and resource-intensive criminal cases, while private attorneys (CJA lawyers) handle the majority of the less serious felony, misdemeanor, and regulatory offenses. PDS is a model program applying a holistic approach to representation. PDS uses both general litigation skills and specialty practices to provide complete, quality representation in complicated cases. While PDS is a single program, PDS divides its attorneys and professionals into specific functions to promote overall representation in individual cases. PDS staff attorneys are divided into seven practice groups: the Trial Division, the Appellate Division, the Mental Health Division, the Special Litigation Division, the Parole Division, the Civil Legal Services Division, and the Community Defender Division. On a day-to-day basis, the attorneys in the various divisions provide advice and training to each other and often form small teams to handle particularly challenging cases.

Using this team approach, PDS undertook more than 15,000 legal matters in FY 2016. As described below, these matters encompassed a wide range of legal representation, including in homicide trials, special education proceedings, parole revocation hearings, disciplinary hearings for detained children and adults, challenges to the treatment of clients under supervision, collateral attacks on wrongful convictions, involuntary civil commitment proceedings, and groundbreaking appellate representation.

### Trial Division

Staff attorneys in the Trial Division zealously represent adults in criminal proceedings in the District of Columbia Superior Court or provide zealous legal representation to children in delinquency matters. Attorneys are assigned to specific levels of cases based on experience and performance. As a result of intensive supervision and ongoing training, attorneys generally transition over the course of several years from litigating juvenile delinquency matters to litigating the most serious adult offenses. The most seasoned attorneys in the Trial Division handle the most intricate and resource-intensive adult cases. For example, senior PDS attorneys routinely handle cases involving DNA evidence, expert testimony, multiple-count indictments, and novel or complex legal issues. This group of highly trained

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<sup>10</sup> D.C. Code §§ 11-2601 – 2608 (2001). D.C. Code § 11-2601 mandates the creation of a plan to furnish representation to indigent defendants that includes provisions for private attorneys, attorneys furnished by PDS, and qualified students participating in clinical programs.

litigators provides representation in the majority of the most serious adult felony cases filed in the District of Columbia Superior Court each year.<sup>11</sup>

Less senior Trial Division staff attorneys handle the most difficult or resource-intensive delinquency cases (cases involving serious charges or children with serious mental illnesses or learning disabilities), some general felony cases, and a limited number of misdemeanor cases.<sup>12</sup> Trial Division staff attorneys also provide representation in a variety of other legal matters through PDS's Duty Day program and the District of Columbia Superior Court's Drug Court program.

### **Appellate Division**

The attorneys in the Appellate Division are primarily responsible for handling the appellate litigation generated in PDS cases, providing legal advice to CJA attorneys in appellate matters, and responding to requests from the District of Columbia Court of Appeals for briefs in non-PDS cases involving novel or sophisticated legal issues. Another important function of the Appellate Division is to provide a wide range of technical assistance and training to other PDS divisions. The Appellate Division attorneys' knowledge and experience allow them to assist in complicated cases without having to perform long hours of original research each time difficult legal issues arise.

### **Mental Health Division**

Attorneys in the Mental Health Division (MHD) handle, on average, half of the involuntary civil commitment cases that arise in the District of Columbia Superior Court.<sup>13</sup> PDS is initially appointed

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<sup>11</sup> PDS has historically been appointed in more than 70 percent of Felony One cases (homicides, rapes, and assaults with the intent to kill) and in FY 2016 was appointed to 78 percent of them. PDS is also assigned to the majority of offenses that have significant mandatory sentences, including "while armed" offenses, kidnapping, and carjacking. The court's electronic data no longer distinguish between these offenses and other less serious offenses (e.g., unarmed drug distribution) where the defendant is detained pretrial. As a result, while PDS monitors daily the list of new cases and is appointed to the most serious cases, PDS can no longer report what percentage of those cases it takes.

<sup>12</sup> General felony cases include weapons offenses, felony drug offenses, and serious assaults. PDS also provides representation in misdemeanor cases on a limited basis, typically in instances involving minor sex offenses that have significant collateral consequences; through a specific request from the court when the matter involves either a novel issue or a client with a significant mental health illness; and in cases involving some systemic issue that PDS is uniquely suited to address. PDS's authorizing statute permits PDS to represent "[p]ersons charged with an offense punishable by imprisonment for a term of 6 months, or more." D.C. Code § 2-1602(a)(1)(A) (1981). Statutory penalties for most misdemeanors in the District of Columbia are for lesser terms.

<sup>13</sup> This average is based on data collected from FY 2008 through FY 2015 and reflects a downward trend in the annual percentage of cases PDS handles – in FY 2015, PDS's percentage of the total mental health cases dropped to 31 percent. At the same time, PDS is handling the same number of cases it handled in FY 2008. The percentage decline is due to the combined effect of a doubling in the number of cases being filed annually since FY 2008 and a change in FY 2012 in PDS's practice that significantly improved case outcomes but requires significantly more resources early in the case. This change has led to both a higher percentage of successful outcomes at the initial hearing in these cases and a higher percentage of cases in which the government discharges the client prior to the hearing. To avoid any decline in performance, PDS has addressed its continuing ability to take more than 50

when a person is detained in a mental hospital upon allegations that the person is a danger to himself or others as a result of mental illness. MHD lawyers also represent persons in post-commitment proceedings, including commitment reviews and outpatient revocation hearings; in involuntary commitment proceedings of persons found incompetent to stand trial because of mental illness or mental retardation; and in matters relating to persons found not guilty by reason of insanity in District of Columbia Superior Court or in United States District Court cases. The lawyers in this division also provide information to the District of Columbia Council on proposed mental health and mental retardation legislation, conduct training sessions on the rights of persons with mental illness involved in civil commitment actions, and provide legal assistance to CJA lawyers appointed by the court to handle involuntary civil commitment cases.

### **Special Litigation Division**

The Special Litigation Division (SLD) handles a wide variety of litigation that seeks to vindicate the constitutional and statutory rights of PDS clients and to challenge pervasive unfair criminal justice practices. SLD attorneys practice across division lines, whether civil or criminal, juvenile or adult, pretrial or post-conviction. They collaborate with their PDS colleagues and with members of the broader legal community with whom they can make common cause. SLD attorneys practice before local and federal trial and appellate courts in the District of Columbia and as *amicus* in the United States Supreme Court. Among their achievements has been the end of the indiscriminate shackling of juveniles in court, the reform of civil forfeiture practice, the successful challenge to the treatment of clients under sex offender supervision, and the exonerations of four men who collectively spent a century in prison for convictions based in part on the invalid testimony of FBI hair analysts.

### **Parole Division**

The Parole Division provides legal representation to individuals who are facing the revocation of their parole or supervised release. PDS represents more than 90 percent of the individuals facing revocation proceedings. The attorneys represent clients at revocation hearings before the U.S. Parole Commission pursuant to local and federal laws. The majority of the revocation hearings are held at local detention facilities; however, through the development of diversion programs, some of the hearings take place at locations within the community.

To leverage its capacity to assist clients, the division also works in collaboration with community organizations; local, state, and federal paroling authorities; and experts who serve as advocates for incentive-based sanctions that are fair and designed to yield successful outcomes for individuals on parole and supervised release. In addition, the division provides training to members of the District of Columbia Bar, members of the Federal Bar, attorneys in District of Columbia law firms providing pro bono services, students in District of Columbia law school clinics, and law students from throughout the United States clerking at PDS on parole and supervised release matters. This training exposes law students to the practice, generating future public defenders; sensitizes criminal defense lawyers to the collateral impact of criminal cases on clients who are also on parole or supervised release; and expands the pool of available attorneys to handle parole matters that PDS is not permitted to handle under the D.C. Rules of Professional Conduct as a result of conflicts.

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percent of the cases filed through hiring and staffing in FY 2015 and FY 2016, with the goal of once again handling 50 percent of the cases by FY 2017. In FY 2016, PDS increased its percentage of mental health cases to 43 percent.

## **Civil Legal Services Division**

The Civil Legal Services Division (CLS) provides legal representation to clients in a wide range of civil matters that are collateral or ancillary to the clients' involvement in the delinquency or criminal justice system, or that involve a restraint on liberty (e.g., certain contempt proceedings). The types of collateral and ancillary civil issues these clients face are complex and almost limitless in number (adverse immigration consequences, loss of parental rights, child support arrearages, loss of housing, seizure of property, loss of employment) and can arise even if the person is acquitted of the criminal charges or has been only arrested and never formally charged.

A major component of CLS's diverse civil practice is special education advocacy by CLS attorneys with expertise under the federal Individuals with Disabilities Education Improvement Act, which mandates special accommodations in public schools for children who cannot be educated adequately in a traditional classroom setting due to learning disabilities or other physical or intellectual challenges. Special education advocacy is a cornerstone of CLS's civil practice because of the vital importance of education and the pressing special educational needs of many court-involved youth.

All of CLS's legal work is done in close collaboration with PDS's other Divisions to identify clients' civil legal needs and to provide effective representation to address and resolve clients' civil legal problems.

## **Community Defender Division**

As part of PDS's holistic approach to public defense, the Community Defender Division (CDD) provides services to adults and children, primarily those who are in the post-adjudication stage of a criminal or juvenile delinquency case in the District of Columbia Superior Court. CDD provides its services through specialized programs for adult and juvenile clients.

For adult clients, CDD responds to the legal and social services needs of newly released individuals and others with criminal records, assisting them in making a successful transition back into the community. Further, CDD serves as the PDS liaison to individuals convicted of District of Columbia Code offenses and serving sentences in District of Columbia Department of Corrections and Federal Bureau of Prisons facilities to provide information to these individuals, monitor their conditions of incarceration, and assist them with parole and other release-related matters. For juvenile clients, CDD represents children at administrative due process hearings, provides in-person legal consultations for children at the District's youth detention centers, and works with community organizations to develop reentry programs that address the special needs of children.

## **Legal Support Services**

Legal Support Services is composed of various professionals within PDS who work closely with PDS attorneys on individual cases: the Investigations Division, the Office of Rehabilitation and Development (ORD), and the Defender Services Office (DSO). Investigators ensure that each case is carefully investigated prior to a client's decision to accept a plea offer or proceed to trial.<sup>14</sup> ORD's forensic social workers provide sentencing assistance to address mitigation issues and to provide

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<sup>14</sup> See e.g., *Kimmelman v. Morrison*, 477 U.S. 365 (1986) (failure to investigate and present Fourth Amendment claim was constitutionally ineffective assistance of counsel).

program alternatives to incarceration for appropriate clients.<sup>15</sup> Other legal support services include a multi-lingual language specialist to facilitate communication with non-English speaking clients without the need to hire outside translators, a librarian to manage PDS's specialized collection and electronic access to research, a forensic scientist whose work and expertise often allow PDS to avoid hiring expensive outside experts or reduce their cost by narrowing the scope of their work, and two paralegals who work on cases and projects.<sup>16</sup>

### **Investigations Division**

The Investigations Division supports all the legal divisions of PDS, in particular the Trial Division, by providing thorough and professional investigative work, which includes locating witnesses, conducting field interviews, taking written statements, collecting and assessing digital evidence (e.g., security camera footage, cell phone records, "Shot Spotter" (gunshots) technology, and Global Positioning System records), serving subpoenas, collecting police reports, copying court and administrative files, and preparing exhibits for trials and other hearings. In addition to producing exceptional investigative work in PDS cases, the staff conducts initial and ongoing training to court-certified CJA investigators who provide investigation services to the CJA attorneys.

### **Office of Rehabilitation and Development**

The Office of Rehabilitation and Development (ORD) is composed of experienced licensed forensic social workers and professional counselors who recommend appropriate sentences to the District of Columbia Superior Court. The ORD staff are skilled "mitigation specialists" who provide the court with information about viable community-based alternatives to incarceration. Because the ORD staff are well-versed in all of the District of Columbia area rehabilitative programs (e.g., drug treatment, job training, education programs, and parenting classes), the forensic social workers are frequently asked to provide consultation for judges, CJA lawyers, and others in the criminal justice system. In addition, the staff of ORD prepare a comprehensive annual *Directory of Adult Services: Community and Confinement Access Guide* and a biennial *Directory of Youth & Families Resource Guide: Community and Confinement Access Guide* that list a wide range of services available to adults and children in the criminal justice system. These directories, available on the PDS website,<sup>17</sup> are used by the Court Services and Offender Supervision Agency, the Federal Bureau of Prisons and its contract prisons, the District of Columbia Superior Court, and many other agencies and organizations working with clients in the criminal justice system. The District's Criminal Justice Coordinating Council (CJCC) has used

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<sup>15</sup> See *Wiggins v. Smith*, 539 U.S. 510 (2003) (decision of counsel not to expand their investigation of petitioner's life history for mitigating evidence beyond presentence investigation report and department of social services records fell short of prevailing professional standards).

<sup>16</sup> As stated above, PDS operates as a single program, allowing it to shift resources between specialties as needed. Currently, PDS has nine forensic social workers, 23 investigators, three paralegals, one interpreter, and one library technician who support the lawyers in their casework. In addition, 15 administrative assistants support the 126 lawyers and other professional staff who provide direct client services.

<sup>17</sup> <http://www.pdsdc.org/professional-resources/publications-legal-resources>. PDS's website can be found at [www.pdsdc.org](http://www.pdsdc.org).

the adult manual to create and post on the CJCC’s website an interactive, electronic map with a “pop-up” feature that allows website visitors to see the location of all the services described in the manual.<sup>18</sup>

### **Defender Services Office**

The Defender Services Office (DSO) supports the court appointment of counsel system by determining the eligibility for court-appointed counsel of virtually every child and adult arrested and brought to the District of Columbia Superior Court and coordinating the availability of CJA attorneys, law school clinic students, pro bono attorneys, and PDS attorneys for appointment to new cases on a daily basis.<sup>19</sup> The DSO operates six days a week, including holidays. PDS attorneys work a similar schedule to be available for client representation and other needs of the court system.

### **Administrative Support**

PDS has a number of divisions that provide technical assistance to PDS staff. Though small, these divisions support the overall effective functioning of PDS using both internal expertise and outside contracts for short-term selective expertise. These divisions include Budget and Finance, Human Resources, Information Technology, and Administrative Services.<sup>20</sup> In concert with individual attorneys and the PDS executive staff, these divisions provide such services as procurement of expert services for individual cases, financial accountability, strategies for developing PDS’s human capital, recruitment, development of an electronic case management system, maintenance of PDS’s IT infrastructure, and copying and supply services.

Though PDS is made up of a number of divisions and legal practice groups, each group and each employee’s work are valued for the manner in which they enhance direct client representation. PDS’s single-program approach allows PDS to manage and adjust its staffing to bring the ideal mix of general skills and specialized expertise to each case according to the client’s needs.

## **PDS PERFORMANCE**

PDS continues to maintain its longstanding tradition of providing exceptional representation to clients and helping to ensure that case outcomes are not driven by an individual’s ability to pay for an attorney. PDS relies on a talented and dedicated work force to produce results for clients who have matters across the length and breadth of the District’s justice system.

The impact of PDS’s work for any individual client is almost always very significant—the difference between a guilty verdict and a not guilty verdict can be the difference between prison and freedom—but data analysis can reveal where PDS has impact on the system.<sup>21</sup> PDS also is increasing its capacity

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<sup>18</sup> <http://www.cjccresourcelocator.net/ResourceLocator/ResourceLocatorHome.aspx>.

<sup>19</sup> This office is staffed with 10 professionals who in FY 2016, conducted eligibility interviews and assisted in the appointment process for more than 28,000 cases.

<sup>20</sup> These four divisions are staffed with 25 professionals.

<sup>21</sup> PDS also has anecdotal evidence of its impact on the criminal justice system. PDS has previously described the four exonerations it has obtained since 2013 for clients who each spent decades in prison after being convicted of felony murder, rape, and other charges. PDS FY 2017 Budget Justification at 14-15. Their convictions were based on testimony from FBI analysts about hair analysis results that

to collect system data, conduct data analysis, and incorporate more evidence-based decision-making in PDS's operations. Although in many instances, the outcomes in cases lead to substantial cost savings for the system, PDS's motivation remains serving clients.

## Case Performance Data

Because PDS's former Atticus case management system was not a data warehouse, PDS has historically reported or tracked only certain metrics of the performance of its Trial, Appellate, Parole, and Mental Health Divisions, choosing metrics that inform PDS about key aspects of the divisions' performance. With the upgraded version of Atticus now available, PDS is expanding the number and type of these performance measures for which data are collected. PDS reports the following outcomes and performance data.

### Trial Division

In FY 2016, as it did between October 1, 2011, and September 30, 2015, PDS won acquittals on all significant charges in more than 50 percent of its cases that proceeded to trial.<sup>22</sup> Recently, the Superior Court agreed to start giving PDS electronic access to the court's data that will allow PDS to compare its performance against that of the rest of the defense bar going forward. Prior to the court's agreement, PDS on its own was able to make some initial comparisons for FY 2007 through FY 2014. During that period, in all felony cases, PDS had a complete acquittal or a mixed verdict result in 77 percent of its cases. In the most serious cases (sex assaults and murder charges) PDS had a complete acquittal rate of 30 percent versus a non-PDS complete acquittal rate of 18 percent. In cases with other serious felony charges (armed offenses, burglaries, etc.), PDS had a complete acquittal rate of 36 percent versus 24 percent for non-PDS cases.

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was later determined to be flawed. Advancements in the science of DNA proved the clients' innocence.

PDS's exposure of the flaws in the testimony led the Department of Justice to conduct a review of 30 years of cases in which similar testimony resulted in convictions. The massive inquiry includes 2,600 convictions and 45 death-row cases from the 1980s and 90s. In April 2015, the Department of Justice and the FBI, following a review of 200 convictions, formally acknowledged that nearly every hair examiner (46 of 48) in the FBI's forensic unit gave flawed testimony in almost all trials in which they offered evidence against defendants. Spenser S. Hsu, "FBI admits flaws in hair analysis over decades," *The Washington Post* (April 18, 2015), [http://www.washingtonpost.com/local/crime/fbi-overstated-forensic-hair-matches-in-nearly-all-criminal-trials-for-decades/2015/04/18/39c8d8c6-e515-11e4-b510-962fcfab310\\_story.html](http://www.washingtonpost.com/local/crime/fbi-overstated-forensic-hair-matches-in-nearly-all-criminal-trials-for-decades/2015/04/18/39c8d8c6-e515-11e4-b510-962fcfab310_story.html). The cases include 32 defendants sentenced to death. *Id.*

<sup>22</sup> PDS is providing multi-year data for this performance metric because of the small size of a yearly data set. Over time and/or with electronic access to the District of Columbia Superior Court's historical data, PDS anticipates being able to provide an increasingly accurate picture of the Trial Division's outcomes in cases that proceed to trial, along with data on rates of trial, rates of dismissals, and other aspects of performance. This metric includes cases where a client was acquitted on all charges as well as cases where a client was acquitted on "significant charges" and convicted on lesser charges – for example, a drug distribution case where the client is convicted only of a misdemeanor possession or an armed carjacking case where the client is convicted only of unauthorized use of a motor vehicle.

In FY 2016, PDS continued to be appointed to every serious juvenile case, except those where the child already had CJA counsel as a result of a previous arrest. PDS also continued to get the vast majority of the most serious adult cases, getting almost 78 percent of Felony One cases. In addition, PDS was able to obtain complete acquittals or favorable mixed verdicts in 83 percent of the jury trials that occurred in FY 2016 and an overall acquittal rate including juvenile and bench trials of 74 percent. This outstanding acquittal rate is due in large part to the extraordinary efforts of PDS investigators, and lawyers from the Trial and Special Litigation Divisions.

While PDS is pleased to provide the above data to demonstrate the performance of the Trial Division, so many aspects of this division's work cannot be fully captured by performance data alone. PDS has provided many examples over the years where work that began in the Trial Division has led to systemic or legislative reforms, producing a lasting impact on the fairness of the criminal justice system and providing examples of cases where unflagging investigative efforts have produced compelling evidence that the PDS client was wrongly charged leading to prosecution dismissals.

While the D.C. Rules of Professional Conduct prohibit PDS from identifying clients and revealing information about their cases outside of the public record,<sup>23</sup> in a number of cases in FY 2016, PDS's investigative efforts uncovered evidence that led to dismissals, as reported above, or acquittals. In one case, PDS was able to show that cell phone records proved that a victim's identification of the defendant as the perpetrator had to be incorrect. In another case, PDS was able to show through witness statements and forensic analysis that the prosecution's understanding of the timeline of the crime was incorrect resulting in an acquittal in a murder case.

### **Appellate Division**

PDS's Appellate Division has continued to secure significant reversals in cases that establish or clarify legal standards in criminal and juvenile delinquency cases and protect the integrity of the criminal justice system. The following are examples of this division's success.

- The Court agreed with PDS's argument that the trial court had improperly prohibited cross-examination of the complainant—the client's sister—and excluded evidence from PDS's client about the complainant's prior instances of instigating her friends to assault family members. This Court recognized the evidence as highly relevant to the client's claim of self-defense: the sister had urged her boyfriend to "get" the client, and the sister had been accidentally hit as the client defended himself.
- The Court reversed a client's receiving stolen property conviction. When the police detained the client, they told him he was not under arrest and questioned him about a wallet they said they saw him throw. The Court suppressed the client's responsive statements, agreeing with PDS that a client who had been chased, detained, and handcuffed on a drug charge was in custody for purposes of requiring advisement of his *Miranda* rights.
- PDS, through a friend-of-the-court brief, assisted in persuading the Court to deny the prosecution's petition for a writ of mandamus accusing a judge of applying the wrong legal standard for determining the mental state required to convict the defendant of attempted distribution of synthetic cannabinoids. The defendant had sold a package of a non-controlled

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<sup>23</sup> D.C. Rule of Professional Conduct 1.6.

substance, and the prosecution had sought to introduce evidence that the police had earlier entered the corner store where the defendant worked as a clerk, seized some packets of material, and warned the defendant that selling synthetic cannabinoids is illegal. The Court of Appeals agreed with the trial court that in order to obtain a conviction, the prosecution had to prove that the defendant knew the nature of what he was selling rather than that the defendant believed he was breaking the law, rejecting the prosecution's theory that a person can be convicted for engaging in legal behavior if he has the wrong state of mind.

- PDS persuaded the District of Columbia Court of Appeals to remand a case for a hearing on whether PDS's client was adequately advised of the implications of a guilty plea. The Court agreed with PDS that the evidentiary hearing may not be conducted by the judge who took the plea, because he had made himself a witness by purporting to rely on his own memory of advising the defendant.
- The Court of Appeals agreed with PDS's arguments that the trial court had permitted three constitutional errors in a PDS's client's trial for murder. One, the Court agreed with PDS that the client's evidence that two other individuals had opportunity and motive to commit the murder on the basis that the client's proffer of facts was sufficient to be admissible. Two, the Court of Appeals concluded that the trial court should have considered sanctions against the prosecution for failing to timely comply with its constitutional obligation to provide exculpatory evidence to the defense. The prosecution had disclosed the information only weeks before trial, although the police had had it for more than a year. And three, the Court agreed with PDS that the trial court should have permitted the defense to cross-examine an informant who testified that the client had confessed to him, where the informant had earlier lied about his involvement in his own pending murder case. The Court held that given the informant's past lies and undisputed motive to avoid being punished for the murders he had committed, the trial court erred in prohibiting PDS's client from showing that the same motivation led him to fabricate the client's confession.

Thus, PDS's Appellate Division well deserves the comment of one appellate judge that "the general quality of the PDS attorneys appearing before the Court of Appeals is very high indeed."<sup>24</sup> Most telling of this high quality is the rate at which PDS secures reversals at the appellate level. A comparison of published opinions from calendar years 2005 through 2014 shows that PDS secures reversals at a rate more than six times higher than that of the rest of the defense bar (32 percent versus 5 percent). This reversal rate is not only indicative of the Appellate Division's performance but also of the Trial Division's performance. In most cases, success on appeal requires that the trial lawyer have made an effective record in the trial court below. And as detailed above, PDS makes these records and secures reversals in cases that are disproportionately the most serious and most difficult cases in the District of Columbia Superior Court.

PDS has maintained this rate of reversal while also continuing to reduce the case backlog and the amount of time between the court's issuance of the notice to file and the filing of a brief.

While PDS is pleased to be a standard-bearer in appellate advocacy, the performance data discussed above prompts PDS to use traditional and more modern means to reach out to and provide support for the CJA appellate bar to improve outcomes for indigent defendants who are not PDS clients. In FY

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<sup>24</sup> PDS 2013 Judicial Survey.

2013, PDS created a criminal law blog dedicated to following and dissecting the criminal law decisions of the D.C. Court of Appeals that includes concrete examples of how a particular decision can be used effectively at either or both the appellate and trial levels.<sup>25</sup> In its first year, the PDS blog had more than 23,000 visits, and in its second year received more than 36,000. In addition, in FY 2016, with the full support of the D. C. Court of Appeals, PDS began a pilot mentoring and training program devoted to supporting the 100 CJA attorneys who serve on the panel from which appointments are made by the court for non-PDS appeals. The program provides opportunities for the panel attorneys to improve their issue-spotting, brief-writing, and oral argument skills by training the attorneys in ways that are modeled on how PDS attorneys are trained, developed, and supervised. PDS's goal over the next two years is to narrow the gap in outcomes between cases handled by PDS and cases handled by CJA attorneys.

## **Mental Health Division**

In FY 2016, PDS's Mental Health Division won 53 percent of the cases that went forward with a contested probable cause hearing. These hearings are presided over by an associate judge of the District of Columbia Superior Court. These initial hearings simply determine whether the government meets the low standard of probable cause before it can proceed to the next stage of the civil commitment process. Of all of PDS's FY 2016 probable cause hearings (contested and non-contested), PDS was able to secure conversions to a voluntary status for 84 percent of their clients. When PDS prevails at these hearings, clients who would otherwise be utilizing hospital resources are released, saving taxpayer funds and making the hospital resources available to those most in need (and, most important, permitting persons who should not be committed involuntarily to retain their liberty).

For cases that proceed past the probable cause hearing, the subsequent hearing to determine whether a client is to be involuntarily committed is a Commission hearing. These hearings are presided over by the Mental Health Commission – a panel consisting of a magistrate judge of the District of Columbia Superior Court and two doctors employed by the court. In FY 2016, PDS won 46 percent of its contested Commission hearings. For those clients who are civilly committed, the presumptive release date is one year from the initial commitment. If the District of Columbia Department of Mental Health wants to continue the commitment for an additional year, it must prevail at a recommitment hearing. Like the Commission hearings, this hearing is presided over by a magistrate judge of the District of Columbia Superior Court and two doctors employed by the court. In FY 2016, PDS was able to mitigate all of the cases that were set for trial by securing outpatient status where the government was seeking inpatient status. The cost of treatment in the community is considerably less expensive than inpatient treatment.

## **Parole Division**

The Parole Division is the sole source of representation for more than 90 percent of parolees and supervised releasees facing revocation proceedings. The division's lawyers practice before the U.S. Parole Commission (USPC), which continues to use guidelines to determine the period of incarceration in the event of a revocation – guidelines that its own experts have identified as outdated and likely to result in over-incarceration. As the Short-term Intervention for Success (SIS) pilot program described in PDS's FY 2015 budget materials<sup>26</sup> has demonstrated, far shorter sentences can

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<sup>25</sup> <http://pdsdc.blogspot.com/>.

<sup>26</sup> The U.S. Parole Commission (USPC) operates a program implementing the cost-effective approach to public safety after finding that the guidelines structure used by the USPC when determining the

be employed in the face of violations without impacting public safety and at considerable cost savings. PDS represents more than 1,000 clients annually who are facing revocation. In FY 2016, PDS represented 1,341 clients facing revocation. Of those clients, 52 percent proceeded to one of three types of revocation proceedings.<sup>27</sup> The other 48 percent were offered and accepted either expedited plea offers or incarceration combined with drug treatment, or were convicted of a new offense and therefore were not eligible for a revocation hearing in this jurisdiction. Revocation hearings are conducted before hearing examiners employed by the USPC, and their decisions are reviewed by U.S. Parole Commissioners. In FY 2016, PDS won reinstatement and release in 20 percent of these contested hearings and persuaded the Commission to impose sentences less than called for in the Commission's guidelines in another 58 percent of cases for a combined success rate of over 78 percent. Thus, PDS advocacy has led the Commission to reassess the need to spend the considerable resources involved in unnecessary lengthy re-incarceration as opposed to shorter sentences or community supervision in more than three quarters of the cases it reviews.

## Additional Case Accomplishments

The above performance data demonstrate PDS's success, but data alone give an incomplete picture of that success. PDS not only reduces the costs associated with inpatient versus outpatient treatment and with secure detention versus community supervision, but also makes a difference in individual lives by demanding their fair treatment within the criminal justice system. The cases described below illustrate the impact that PDS as a well-functioning public defender office has.<sup>28</sup>

- **Adult trial matter:** A client's armed sex offense case was dismissed after PDS's investigation revealed that the complainant had a pending criminal case in another jurisdiction for filing a false allegation of sexual assault.
- **Juvenile trial matter:** PDS challenged the prosecution's decision to charge a 17-year-old as an adult under Title 16's<sup>29</sup> "traffic offense" provision. He was charged with fleeing law enforcement in a motor vehicle, reckless driving, and operating without a permit. He had no previous contact with the criminal justice system, and no injuries were alleged. PDS argued that charging the teenager with the "fleeing" offense undermined the purpose of Title 16 and the juvenile justice system. The U.S. Attorney's Office decided not to oppose this motion in favor of the case being handled by the District's Office of the Attorney General in juvenile court. The decision allowed the child to enter adulthood without the burden of a conviction and the collateral consequences (denial of employment, licensing, benefits, etc) that often

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period of incarceration a person on parole or supervised release should receive if the person was determined to have violated the conditions of release had not been validated for the target population and resulted in over-incarceration. The USPC acted after a study determined that the USPC could use a three-month or shorter period of incarceration and achieve the same public safety benefits as a twelve-month period of incarceration.

<sup>27</sup> Final revocation hearings, Short Intervention for Success (SIS) hearings, and Notice to Appear (NTA) hearings.

<sup>28</sup> PDS masks the identity of its clients pursuant to the requirements of the D.C. Rules of Professional Conduct. Thus, the facts provided are not detailed.

<sup>29</sup> Title 16 is the District's law that permits children facing certain serious charges or traffic offenses to be prosecuted as adults in criminal court.

accompany it. This case is part of PDS's effort to push back against the overuse of Title 16 to subject children in the District to the harsh penalties, sentencing, and imprisonment in the adult system.

- **Parole release matter:** PDS obtained a client's release on parole after he had completed more than 30 years of a life sentence for felony murder. The client had obtained a GED and an associate's degree and had successfully participated in a technical skills program and other programs while in prison. He had a sterling disciplinary record, not having had a single disciplinary infraction during the entire period of his incarceration. His superior adjustment to prison resulted in his being selected for a trusted employment position in the Federal Bureau of Prisons. These achievements led the USPC to order his release after his first-ever parole hearing. He subsequently secured employment, and his reentry continues to be successful.
- **Parole revocation matter:** PDS obtained a finding of no parole violation after presenting a complainant's medical records and photos to the parole hearing examiner showing that she did not have the injuries she claimed.

### Additional Accomplishments

- **Fugitive Safe Surrender:** PDS collaborated with District of Columbia federal and local law enforcement and the District of Columbia Superior Court in the third implementation of the Fugitive Safe Surrender program. The nationally replicated program, initiated by the U.S. Marshals Service and run from the courthouse, offers individuals with outstanding bench warrants for alleged violation of probation, supervised release, or parole in the District of Columbia the opportunity to turn themselves in. Individuals who avail themselves of the opportunity receive the benefit of favorable consideration by the court in disposing of the warrants, and the U.S. Marshals Service personnel reduce the safety risk from unannounced arrests at individuals' residences or places of employment. Over three days, PDS provided legal advice to the more than 300 people who responded to the outreach, almost all of whom had their very old minor cases dismissed or who were released pending their next court date.
- **Immigration consequences:** Superior Court defendants benefitted from PDS's improved and expanded manner of providing constitutionally required legal advice to clients on the immigration consequences of their criminal cases.<sup>30</sup> In response to the still-growing number of defendants who need the service due to the complicated intersection of criminal and immigration law, PDS hired an attorney dedicated exclusively to this "cimmigration" practice. CJA panel attorneys are able to consult with the cimmigration attorney as well.
- **Expanded diversion options:** PDS collaborated with federal and local law enforcement agencies, the District of Columbia Superior Court, panel attorneys, and the District of Columbia Mayor's Office to establish two new Superior Court-based diversion programs that focus on the underlying social factors that result in recidivism. The programs increase both the number of available court diversion options and the number of people who are eligible for them. The programs allow eligible persons to take part in either a six-month work/life skills

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<sup>30</sup> In *Padilla v. Kentucky*, 559 U.S. 356 (2010), the Supreme Court held that criminal defense attorneys are required by the Constitution to inform their clients of the possible immigration consequences of a conviction.

program or a six-month education program focused on the individual needs of each person charged with a qualifying misdemeanor. PDS persuaded the prosecution to allow individuals charged with multiple minor misdemeanors or persons who had prior felony convictions that were more than 10 years old, who are barred from participating in existing diversion programs, to be considered eligible for these new programs. Those who successfully complete the program have their charges dismissed.

- **Continuity of operations planning:** PDS participated with federal and local law enforcement agencies, the District of Columbia Superior Court, and various other District of Columbia agencies in the periodic disaster planning exercises organized by the District's Criminal Justice Coordinating Council for the District's justice system. This was the first exercise focused on the juvenile justice system. As the institutional entity with the responsibility of representing adults and children in the justice system, PDS engages in the exercises to ensure that the needs of those populations are accounted for in the event of a disaster.
- **Automated Staffing Plan:** PDS's Information Technology Office and Human Resources Office staff designed PDS's Automated Staffing Plan System (ASPS), which allows PDS to more efficiently conduct on- and off-boarding procedures for staff, including tracking office equipment and assignments of PDS systems access rights. ASPS has enhanced PDS's efficiency and its ability to produce detailed reports for auditors.
- **Case management system on smart phones:** PDS started a pilot project to make Atticus, PDS's case management system, available on staff's smart phones. This allows attorneys and investigators to make real-time updates to cases and obtain case information in the field when needed.
- **Electronic interview forms:** PDS entered the testing phase of transforming the interviews PDS conducts with new arrestees to determine their eligibility for court-appointed counsel to an electronic process. Currently, the staff completes interview forms and eligibility calculations on paper. The new process will allow the staff to use smart pads to collect and store the information and provide it electronically to the court in support of its attorney assignment process.
- **Successful FY 2016 audit:** As it has in the past, PDS received a "clean" audit finding for FY 2016.
- **Website redesign:** PDS redesigned its website, making resources to criminal law practitioners more accessible and updating the site's appearance.

## Historical Performance

The above accomplishments in FY 2016 provide only a snapshot in a long history of high level performance, and the exceptional quality of the advocacy of PDS's staff is reflected beyond performance data and case outcomes. PDS's skills have been recognized over time by:

- the eight awards PDS, as an institution, and its staff have received from outside organizations over the past twelve years, including the director's selection by the District of Columbia Bar to receive the 2016 Thurgood Marshall Award for public service;

- the one federal appellate court judicial appointment, three federal trial court judicial appointments, two local appellate court judicial appointments, and eight local trial court judicial appointments of PDS attorneys or alumni over the past twelve years;
- the award of a MacArthur “genius grant” to a former PDS training director for demonstrating “extraordinary originality and dedication” in creating a training and support program for public defenders across the South – a program that is patterned directly after the PDS model;
- the requests from the public defender organizations across the country including in California, Florida, Georgia, Kentucky, Mississippi, Missouri, Virginia, and New York for PDS attorneys to present training involving trial advocacy skills, appellate practice, and forensic science;
- the reliance of every court in the District of Columbia, including the U.S. Supreme Court, on PDS *amicus* filings;
- the requests from defender offices around the country for assistance and for pleadings, training guides, and other materials developed by PDS’s specialty practice groups;
- the hundreds of applications PDS receives each year from talented individuals seeking to become PDS staff attorneys, law clerks, and interns;
- the consistently high ratings District of Columbia trial and appellate judges give PDS when surveyed about the quality of legal representation PDS provides; and
- the requests from foreign attorneys and officials interested in the American criminal justice system or public defense practice in particular for opportunities to learn about PDS or to observe attorneys in court, including a FY 2016 visit from a law professor from Australia.

## Training

In FY 2016, PDS continued its commitment to advancing quality defense for those who cannot afford to hire their own attorneys. As in the past, PDS produced the following trainings for CJA panel attorneys: a “Summer Series” and “Fall Series” training on specialty topics for local attorneys,<sup>31</sup> local training for certified CJA investigators, training for panel attorneys new to District of Columbia Superior Court practice, and the 2016 Forensic Science Conference.<sup>32</sup>

Annually, PDS lawyers from each of its legal divisions provide more than 50 hours of training for hundreds of non-PDS attorneys representing indigent clients in the District of Columbia. As described above, PDS introduced a pilot training project for appellate CJA attorneys. PDS will assess the impact of the effectiveness of the training efforts by surveying the appellate judges and the attorneys and monitoring outcomes in their appellate cases with the goal of improving case outcomes for all persons who need court-appointed counsel in the District of Columbia.

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<sup>31</sup> In FY 2016, the Summer and Fall Series received an overall average rating of 4.7 on a 5-point scale. Comments on various sessions included, “Outstanding!,” “technical knowledge very impressive,” “Extremely informative,” “Presentation and organization were excellent!,” and “Excellent job of explaining complex material in a simple way.”

<sup>32</sup> The Forensic Science Conference received an average rating of 4.4 on a 5-point scale. Comments on various sessions included, “Great and informative session. Presenter was thorough and well organized,” “6 out of 5 rating!,” “Very helpful!,” “5++ out of 5 rating!,” “Extraordinary presentation,” “extremely interesting and well presented,” “this was an excellent conference!,” and “Excellent conference. The topic was extremely relevant and well presented.”

## CONCLUSION

The core work of PDS is the representation of individual clients facing a loss of liberty. The examples above all flow from the work done every day by PDS lawyers, investigators, social workers, and other staff in thousands of matters. The proceedings for involuntary commitment, parole revocation, and criminal and juvenile delinquency cases are adversarial in nature, and PDS has able adversaries in the District's Attorney General's Office and the United States Attorney's Office for the District of Columbia. A fair justice system depends on having all components (judges, prosecution, and defense) fulfill their respective roles. PDS plays a central part in ensuring that all cases, whether they result in plea agreements or trials, involve comprehensive investigation and thorough consultation with the client. For those matters that proceed to trial or to an administrative hearing, PDS litigates each matter to the fullest, ensuring that the proceeding constitutes a full and fair airing of reliable evidence. As it has every year since its inception, in FY 2016, PDS won many trials, fought a forceful fight in others, and found resolution prior to trial for many clients. Whatever the outcome or type of case, PDS's goal for each client was competent, quality representation. Adequate financial support for PDS's services is essential to assist the District in meeting its constitutional obligation to provide criminal defense representation in the District's courts, to ensure the reliability of the results, to avoid costly wrongful convictions, and to ensure due process protections are in effect before anyone loses her liberty.

# BUDGET DISPLAYS

## PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

### FY 2018 Summary of Changes

	<u>FTE</u>	<u>Amount</u> <u>(\$ in 000s)</u>
<b>FY 2017 Annualized Continuing Resolution</b>	<b>224</b>	<b>40,811</b>
<b>Adjustments to Base:</b>		
Less Non-Recurring Expense	-	-
Add- Pay raises	-	593
General Pricing Level Adjustments	-	312
Efficiency Savings	-	(1,634)
<b>Total, Adjustments</b>		<u>(729)</u>
<b>FY 2018 Base</b>	<b>224</b>	<b>40,082</b>
<b>PROGRAM CHANGES:</b>		
Non-Recurring Expenses	-	-
<b>TOTAL, Program Changes</b>	<u>-</u>	<u>-</u>
<b>FY 2018 REQUEST</b>	<b>224</b>	<b>40,082</b>

**FY 2017 Salaries and Expenses**  
**Summary of Requirements by Grade and Object Class**  
(\$ in 000s)

<b>Grades:</b>	2016 Enacted		FY 2017 CR		FY2018 Budget Request	
	FTE	Amount	FTE	Amount	FTE	Amount
ES	3	478	3	485	3	492
AD-15	19	2,860	18	2,508	18	2,662
AD-14	64	7,513	67	8,128	68	9,446
AD-13	34	3,450	32	3,100	37	3,584
AD-12	23	2,080	29	2,677	30	2,697
AD-11	38	3,043	30	2,387	31	2,214
AD-10	1	72	-	-	0	-
AD-09	19	1,125	20	1,231	18	1,144
AD-08	3	149	1	53	3	171
AD-07	14	686	20	859	12	517
AD-06	4	179	3	130	3	152
AD-05	2	83	1	37	1	43
Total Appropriated Positions	224	21,718	224	21,595	224	23,123
EX/ES FTE		3		3		3
GS FTE		221		221		224
Average EX/ES Salary		159		162		164
Average AD Salary		96		95		95
Average AD Grade		13		13		13
<b>Object Class</b>						
-						
11.1 Full Time Permanent	224	21,718	224	21,595	224	23,123
11.5 Other Pers. Comp.		210		260		210
11.8 Special Pers. Services		1,440		1,256		0
12.0 Benefits		7,171		7,038		7,383
13.0 Unemployment Comp.		100		100		90
<b>Personnel Costs</b>	224	30,639	224	30,249	224	30,806
21.0 Travel & Training		391		388		296
22.0 Transportation of Things		10		10		6
23.1 Rental Payments to GSA		3,628		3,704		3,657
23.2 Rental Pmts.to Others, & Misc.		237		240		241
23.3 Comm., Utilities & Misc.		436		468		360
24.0 Printing and Reproduction		101		91		63
25.1 Consulting Services		925		1080		925
25.2 Other Services		1,652		2,029		1,350
25.3 Purchases from Gov't Accts.		1,013		1,113		991
25.4 Maintenance of Facilities		104		105		81
25.7 Maintenance of Equipment		330		323		310
26.0 Supplies and Materials		477		391		376
31.0 Furniture and Equipment		946		620		620
<b>Non-Personnel Costs</b>		10,250		10,562		9,276
<b>TOTAL</b>	224	40,889	224	40,811	224	40,082
<b>31.0 Non recurring Expense -</b>						
<b>Grand Total</b>		<b>40,889</b>		<b>40,811</b>		<b>40,082</b>
<b>OUTLAYS</b>		<b>36,800</b>		<b>37,600</b>		<b>37,600</b>

## APPROPRIATION LANGUAGE

### Public Defender Service for the District of Columbia

#### Appropriation Language Fiscal Year 2018

*For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, [\$40,889,000] **\$40,082,000**: **Provided**, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies.*

Note.—A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114–254). The amounts included for 2017 reflect the annualized level provided by the continuing resolution.

## ORGANIZATION CHART

